

## **REMARKS**

### **Introduction**

Claims 1 – 9 were originally pending in the present application. Claim 1 has been amended to include the limitations previously set forth in dependent claim 8. Claim 8 has been canceled. No new matter has been added. Accordingly, claims 1 – 7 and 9 are presently pending for consideration in this application.

### **Specification**

The Abstract of the disclosure was objected to because it exceeded 150 words and included a reference to the “invention.” Accordingly, the Abstract has been amended herein to bring it in compliance with the rules and the Examiner’s suggestion.

In addition, paragraph [0026] of the specification was amended to clarify that the base is “generally indicated at” 46.

### **Drawings**

The drawings were objected to because reference numerals 44 and 110 were mentioned in the description but not included in the drawings. A replacement Figure 4 is submitted herewith wherein the housing of the low profile sensor assembly has been properly indicated with reference numeral 44 as described in paragraph [0026] of the specification. The housing was erroneously designated with reference numeral 48. A replacement Figure 1 is also submitted herewith wherein the seat cushion recess has been properly indicated with reference numeral 110.

The drawings were also objected to on the basis that reference numeral “200” was used in the description, but not the drawings. Applicants respectfully submit that this numeral was not used to

reference any part of the present invention. Rather reference to “200” in the application indicates the corresponding increase in reference numerals used to designate like components in the embodiment illustrated in Figure 3 with respect to the embodiment illustrated in Figure 1. Thus, Examiner’s objection to the drawings based on the alleged reference numeral “200” is respectfully traversed.

The drawings were further objected to because reference numerals “66, 220, 234, 282, and 284” were used in the drawings but not mentioned in the description. Paragraphs [0029] and [0050] of the specification have been amended to specifically cite reference numerals “66, 220, 282 and 284.” More specifically, the inner surface of the intermediate guide member was erroneously designated with reference numeral 60 in paragraph [0029] of the specification. Reference numerals 282 and 284 were expressly indicated in paragraph [0050] of the specification, as amended. Additionally, a replacement Figure 3 is submitted herewith wherein the bolster of the tray has been properly indicated with reference numeral 294 as described in paragraph [0050] of the specification. The housing was erroneously designated with reference numeral 234.

The drawings were further objected to because reference numeral “46” was used to designate different elements in Figure 4 of the drawings. Replacement Figure 4, submitted herewith, properly indicates the sensor with reference numeral 42 as described at paragraph [0032] of the specification. The sensor had been erroneously designated with reference numeral 46.

Attorney for applicants apologizes for these errors.

### **Claim Rejections**

#### **35 U.S.C. § 102(e)**

Claims 1 and 5-7 were rejected under 35 U.S.C. § 102(b) as being anticipated by the Mehney et al. ‘344 patent. A claim is said to be anticipated where each and every limitation of the claim can

be found in a single reference. Independent claim1 has amended to include additional limitations previously set forth in dependent claim 8. In view of the amendments as explained in greater detail below, applicants respectfully submit that each and every limitation of independent claim 1 cannot be found in the reference of record in this case. Claims 2 – 7 and 9 are all ultimately dependent on this independent claim and add further perfecting limitations. Accordingly, this rejection is respectfully traversed.

### **35 U.S.C. §103(a)**

In addition, claim 2 was rejected under 35 U.S.C. § 103(a) as being obvious and therefore unpatentable over the Mehney et al. '344 patent. Claim 2 is ultimately dependent upon independent claim 1. Independent claim1 has amended to include additional limitations directed toward the structure of the vehicle occupant sensing system and reinforcing inserts positioned therein. In view of this amendment as explained in greater detail below, applicants cannot agree that the invention defined in claim 2 would have been obvious in view of the Mehney et al. '344 patent. Accordingly, this rejection is respectfully traversed.

### **The Prior Art**

#### **The Mehney et al. '344 Patent**

The Mehney et al. '344 patent discloses an apparatus (10) including a seat (18) having a frame (30), weight sensors (22), and a vehicle occupant protection device (102) responsive to the weight sensor apparatus (22). The seat frame (30) includes a seat pan (32) covered by a bottom cushion (38) and a back portion (34) that is covered by a back cushion (36). The seat frame (30) is mounted to a seat track assembly (18) through a plurality of seat mount members (20) located

*beneath the four corners of the seat pan* (32). (Column 3, lines 59-64). The seat mount members (20) include strain gauge circuitry (22) that operate as sensors to detect when a seat is occupied. When a seat occupant is detected, the strain gauge circuitry (22) transmit signals to a deployment system (100) capable of activating an inflatable device (102), such as an air bag, in the event of a vehicle crash.

However, the Mehney et al. '344 patent fails to disclose or suggest a vehicle seat assembly including a vehicle occupant sensing system that has a plurality of sensor assemblies positioned *adjacent the lower surface of the lower seat cushion* and further having at least one reinforcing insert disposed between at least one of the sensor assemblies and the lower surface of the lower seat cushion, where *the lower surface includes at least one recess formed therein* to receive at least one reinforcing insert.

#### **The Vehicle Seat Assembly of the Present Invention**

In contrast to the related art, amended claim 1 of the present application discloses a vehicle seat assembly including a vehicle occupant sensing system for detecting a condition of a vehicle seat.

The assembly includes a lower seat cushion with an upper surface and a lower surface. The vehicle seat assembly also has *a plurality of sensor assemblies positioned adjacent the lower surface of the lower seat cushion*. The sensor assemblies are responsive to a condition of the lower seat cushion. The vehicle seat assembly also has at least one reinforcing insert disposed between at least one of the sensor assemblies and the lower surface of the lower seat cushion. Further, *the lower surface includes at least one recess formed therein that is adapted to receive at least one reinforcing insert*.

### Argument

Applicant respectfully submits that the vehicle seat assembly defined in independent claim 1 is not disclosed or suggested by the Mehney et al. '344 patent. More specifically, the Mehney et al. '344 patent does not disclose or suggest a plurality of sensor assemblies positioned adjacent the lower seat cushion. In contrast, the Mehney et al. '344 patent discloses that the strain gauge circuitry is located underneath the seat pan, between the bottom portion of the seat frame and the seat track assembly. Likewise, there is nothing in the teachings of the Mehney et al. '344 patent that disclose or suggest that the lower surface of the lower seat cushion have a recess to receive at least one sensor assembly. Such a recess is neither disclosed nor suggested by the Mehney et al. '344 patent since the strain gauge circuitry is disposed away from the lower seat cushion and below the seat pan. For these reasons, applicants respectfully submit that the rejection under §102 should be withdrawn.

On the other hand, a rejection based on §103 must rest on a factual basis, with the facts being interpreted without a hindsight reconstruction of the invention from the prior art. Here, it is respectfully submitted that the Mehney et al. '344 patent skirts around, but does not suggest the claimed invention *as a whole*. See Hybritech Inc. v. Monoclonal Antibodies, Inc., 802 F.2d 1367, 1383 (Fed. Cir. 1986). In fact, the Mehney et al. '344 vehicle occupant weight sensor apparatus is structurally different from the present invention as defined in independent claim 1, as amended. Thus, it is respectfully submitted that the Examiner is picking and choosing elements from the structurally dissimilar device that is disclosed in the Mehney et al. '344 patent, adding other elements that are missing from the disclosure and restructuring the Mehney et al. vehicle occupant weight sensor apparatus, using hindsight and the applicants' own disclosure, to conclude that the claimed invention is obvious. This is improper. There is a fundamental axiom in patent law that if a

reference must be reconstructed or rearranged to change its operation to meet the applicants' claim, that modification of the reference is inappropriate and cannot stand.

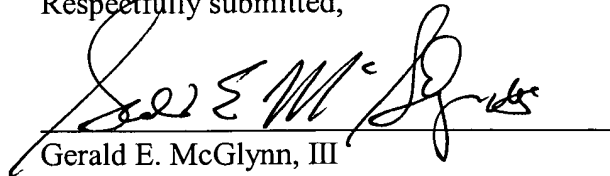
There is simply no motivation provided in the Mehney et al. '344 patent to provide a vehicle seat assembly including a vehicle occupant sensing system for detecting a condition of a vehicle seat that includes a lower seat cushion with an upper surface and a lower surface and a plurality of sensor assemblies positioned adjacent the lower surface of the lower seat cushion. Similarly, there is no suggestion provided in the Mehney et al. '344 patent to employ at least one reinforcing insert disposed between at least one of the sensor assemblies and the lower surface of the lower seat cushion where the lower surface includes at least one recess formed therein that is adapted to receive at least one reinforcing insert. Furthermore, even assuming that such a motivation existed, this rearrangement of Mehney et al. '344 apparatus would not result in a clutch assembly of the type described in independent claim 1, as amended.

In view of the above, it is respectfully submitted that independent claim 1 recites structure that is not disclosed or suggested by the prior art and is patentably distinguishable from the subject matter of the reference discussed above. Claims 2 – 7 and 9 are all ultimately dependent upon independent claim 1 and add further perfecting limitations. As such, the prior art reference does not suggest the subject invention. However, even if it did, it could only be applied through hindsight after restructuring the disclosure of the prior art in view of applicants' invention. A rearrangement of the clutch described in this reference to derive applicants' invention would, in and of itself, be an invention.

**Conclusion**

In view of the above, applicants respectfully submit that the claims clearly distinguish over the prior art and are therefore allowable. Accordingly, applicants respectfully solicit the allowance of the claims pending in the present application.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Gerald E. McGlynn, III", is written over a horizontal line.

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